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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,267	05/29/2001	Christopher M. White	3382-56618	8059
26119 7590 06/20/2007 KLARQUIST SPARKMAN LLP 121 S.W. SALMON STREET SUITE 1600 PORTLAND, OR 97204			EXAMINER VU, NGOC K	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 06/20/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/870,267

Applicant(s)

WHITE ET AL.

Examiner

Ngoc K. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 and 23 is/are allowed.
- 6) ☒ Claim(s) 19-21 and 24-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date See Continuation Sheet
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :5/25/07, 5/14/07, 3/29/07, 6/7/06, 7/5/05, 6/8/05, 5/30/06.

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/20/2007 has been entered.

***Response to Arguments***

2. Applicant's arguments filed 11/9/06 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 32 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Particularly, the limitation "wherein response to the delay control actuation further comprises displaying a commercial message on screen" is not described in the specification. In fact, the specification only describes displaying an indication of waiting email, or commercial or promotional messages while the video is interrupted. (Emphasis added. See page 9, lines 3-6). From this, the system does not require displaying an indication of waiting email and further

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**displaying** a commercial message on screen in response to the delay control actual as claimed.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter Sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connor (US 6,480,667 B1) in view of Dunn (US 5,517,257 A) and further in view of Yen et al (US 5,991,799 A).

Regarding claim 19, O'Connor teaches a computer readable medium comprising executable instructions (software) for performing a method: comprising receiving a composite signal (see col. 2, lines 5-6; figure 1), displaying a program received on the composite signal as it is received (via bypass 142 from 102 to 120 -figure 1; col. 4, lines 55-58); receiving actuation of a delay control (i.e., suspend video - figure 7), in response to the delay control actuation, delaying displaying of the program, compressing and saving the program to a circular buffer (106-122) as it is received (col. 4, line 65 to col. 5, lines 1-5 and col. 5, lines 9-11), and receiving actuation of the resume control (i.e., un-suspend video,- see figure 7), and in response to the resume actuation, decompressing and resuming display of the program as saved in the circular buffer from a time of delay actuation (see col. 2, lines 46-50; col. 5, lines 11-19). O'Connor does not explicitly teach displaying a user interface comprising a delay control and a resume control, and in response to the delay control action, persisting the user interface on screen wit the

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resume control highlighted. However, Dunn teaches displaying user interface 100 comprising pause control 110 and play control 102 (see figures 3, 5, 6 and 8). Dunn further teaches that if the movie is running, the interface 100 is called up when viewer wishes to control VCR-like, i.e., pause, the interface 100 having "play" symbol is displayed. It is noted that the interface 100 having pause control and play control are mutually exclusive in that the play control is useful only when movie is paused, and the pause control is useful only when the movie is running (see figures 6 and 8; col. 7, line 63 to col. 8, line 13; col. 6, lines 36-39). From this view, play/resume control is active or centered attention on when the movie is paused. In other words, the interface 100 with play/resume control highlighted is provided on screen when the movie is paused. That is, the interface with play/resume control highlighted on screen is persisted until the viewer presses play/resume control. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of O'Connor by including the interface having play/resume control and pause control, and persisting the interface with play/resume control highlighted on screen until the viewer presses play/resume control as taught by Dunn in order to provide viewers a convenient, intuitive video control user interface for controlling viewing of video movies on a television. O'Connor also does not teach displaying an indication of waiting email on screen in response to the delay control actuation. However, Yen explicitly discloses that background element alerts foreground element of the receiver to interrupt presentation of a first information item with a second information item, wherein the information items include electronic mail messages. (See col. 9, lines 15-40; col. 11, lines 44-50; col. 12, lines 55-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of O'Connor by interrupting presentation of a first information item with a second information item such as email messages as taught by Yen in order to engagingly present the incoming information to a user on a screen.

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Regarding claim 20, O'Connor further teaches decompressing and playing display of the program as saved in the circular buffer from the time of delay actuation, while continuing to compress and save the program to the circular buffer as it is received (see col. 2, lines 58-64; col. 3, lines 33-42).

Regarding claim 21, O'Connor as modified by Dunn further teaches that the program is chosen from among a list comprising video on demand and broadcast television (see Dunn: col. 5, lines 26-31).

Regarding claims 27 and 28, the combined teachings of O'Connor and Dunn include displaying the user interface on a terminal (TV - see Dunn: figure 3), and the terminal comprising an infrared interface and a cable user interfaces (see Dunn: col. 5, lines 1-4; col. 4, lines 8-11; see O'Connor: col. 2, lines 5-8; col. 5, lines 2-5).

Regarding claim 29, O'Connor teaches that the program received on the composite signal is a video program (see col. 2, lines 5-7).

Regarding claim 30, O'Connor teaches that the program received on the composite signal comprises at least one interactive component (e.g., commercial - col. 5, lines 54-56).

7. Claims 24-26 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connor (US 6,480,667 B1) in view of Dunn (US 5,517,257 A) and Yen et al (US 5,991,799 A) and further in view of Rangan et al. (US 6,154,771 A).

Regarding claims 24-26 and 31, the combined teachings of O'Connor and Dunn include the delay control and resume control. Both fail to teach the delay and resume controls are defined by HTML primitives, displaying a user interface rendering at least one HTML primitive, the user interface is displayed on a WebTV terminal, and/or at least one HTML primitive defines a hyperlink. However, Rangan discloses a web-based playback client terminal providing a web browser 70 included VCR-like controls 71 such as pause and resume/play functions for video

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playback controls. Rangan further discloses playing hypervideo or the feature of hyperlinks (see figures 2, 4; col. 24, line 59 to col. 25, line 18; col. 21, lines 15-21 and 28-33; col. 23, lines 14-16). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined system of O'Connor and Dunn by including a web browser included hyperlinks and VCR-like controls such as pause and resume/play functions for video playback controls as taught by Rangan in order to enhance the interactive television system.

***Allowable Subject Matter***

8. Claims 22 and 23 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach or fairly suggest a system and method as variously claimed. Particularly, the prior art does not teach or fairly suggest the features of "means for determining if ... available transmission channels" as recited in claim 22, and "returning a transmission channel assigned...from a time of delay actuation" as recited in claim 23.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ngoc Vu/  
NGOC K. VU  
PRIMARY EXAMINER  
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June 11, 2007